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EXAMINER

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Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to claims 1, 16, 24 and 32 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9, 11-20, 22-23, 32-38, 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman (US 6,622,017) in view of Martin (US 2002/0120519)

Regarding **claim 1**, Hoffman teaches a method for providing services to a mobile device (Fig. 2, Wireless Carrier Network), the method comprising: receiving a request from the mobile device (Fig. 2, element 5) for mobile service subscription choices (Fig. 2, Features Service Database element 29, and Provisioning Data element 27); sending data to the mobile device relating to mobile service subscription choices (Fig. 1, Distribution/Programming Procedure, 3rd Party element 37, use Subscriber Selections to Mobile device), wherein the subscription choices are sent to the mobile device over a wireless communication path (Fig. 1 and Fig. 2, via base station 13 to mobile 5), **but is silent on** the subscription choices are for selection by a user of the mobile device, and

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the subscription choices comprises choices to initiate or modify a subscription to enable wireless communications over a wireless network; receiving a selection of at least one subscription choice from the mobile device over the wireless communication path; and activating a service corresponding to the at least one selected subscription choice in response to the selection (Fig. 20 to Fig. 33, [0010, 0091-0093, 0098-0099, 0101, 0185]).

However, Martin teaches the services plans may be dynamically/automatically generated by the service providers or authorized representatives thereof based on the user's preference and/or usage information. The offering of phones and/or services may be customized for members of certain affinity groups in accordance with agreements made with those affinity groups. In addition, or alternatively, affinity group members may be offered discounts on standard offerings of phones and/or services. Of course such customization for affinity group members and the like can also be provided to purchases made directly online, rather than in a physical store. And the user selects the desired service plan for the phone [0010, 0091-0093, 0098-0099, 0101-0105].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoffman, such that the subscription choices are for selection by a user of the mobile device, and the subscription choices comprises choices to initiate or modify a subscription to enable wireless communications over a wireless network; receiving a selection of at least one subscription choice from the mobile device over the wireless communication path; and activating a service corresponding to the at least one selected subscription choice in response to the

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selection, to help the users to select or choose the service provider that offers the most suitable service such as a lower cost or quality of service.

Regarding **claim 2**, Hoffman/Martin teach in claim 1, Martin further teaches wherein the request for mobile subscription choices from the mobile device comprises an activation request [0029, 0093] of Martin.

Regarding **claim 3**, Hoffman/Martin teach in claim 1, Hoffman further teaches wherein the mobile device comprises a mobile phone (Fig.2, mobile phone #5).

Regarding **claim 4**, Hoffman/Martin teach in claim 1, Martin further teaches wherein the mobile device is capable of operation with a plurality of service providers [0005, 0008] of Martin.

Regarding **claim 5**, Hoffman/Martin teach in claim 4, Martin further teaches wherein the data relating to mobile subscription choices comprises an identification of a plurality of available service providers and the selection of at least one subscription option comprises an identification of a selected service provider [0030-0031] of Martin.

Regarding **claim 6**, Hoffman/Martin teach in claim 5, Martin further teaches wherein the available service providers comprise mobile virtual network operators [0207] of Martin.

Regarding **claim 7**, Hoffman/Martin teach in claim 5, Martin further teaches wherein activating a service comprises sending data representing at least one setting for the mobile device, with the data being sent over the wireless communication path [0025-0030] of Martin.

Regarding **claim 8**, Hoffman/Martin teach in claim 7, Martin further teaches wherein the at least one setting allows the mobile device to obtain service from the selected service provider (Abstract, [0014]) of Martin.

Regarding **claim 9**, Hoffman/Martin teach in claim 7, Martin further teaches wherein the at least one setting comprises a preferred roaming list [0089-0090, 0098].

Regarding **claim 11**, Hoffman/Martin teach in claim 7, Martin further teaches wherein the data relating to mobile subscription choices and the data representing at least one setting for the mobile device are adapted for use on a Java platform on the mobile device [0172] of Martin.

Regarding **claim 12**, Hoffman/Martin teach in claim 7, Martin further teaches wherein the data relating to mobile subscription choices comprises an identification of a plurality of available service plans [0085] of Martin.

Regarding **claim 13**, Hoffman/Martin teach in claim 1, Martin further teaches wherein activating a service comprises selecting settings data associated with the selected subscription option from stored respective sets of settings data associated with each of the mobile services subscriptions choices [0029, 0093, 0098] of Martin.

Regarding **claim 14**, Hoffman/Martin teach claim 13, Martin further teaches wherein the settings data comprises a preferred roaming list selected from a plurality of preferred roaming lists [0089-0090, 0098] of Martin.

Regarding **claim 15**, Hoffman/Martin teach in claim 1, Martin further teaches wherein the method is performed by a server remote from and in wireless communication with the mobile device [0027, 0096-0099, 0102] of Martin.

Regarding **claim 16**, Martin teaches a method of provisioning settings for a mobile device (Abstract, Fig. 2. Mobile device element 5), the method comprising: receiving information associating a mobile device with a particular service (Fig. 1 and Fig. 2), **but is silent on** the particular service being a service to enable wireless communications over a wireless network; identifying settings data associated with the particular service from a database containing settings data for a plurality of services; and sending settings data for the particular service to the mobile device over a wireless communication link, wherein the settings data is configured to change operational settings for the mobile device (Fig. 20 to Fig. 33 [0088-0092, 0101-0105]).

However, Martin teaches the services plans may be dynamically/automatically generated by the service providers or authorized representatives thereof based on the user's preference and/or usage information. The offering of phones and/or services may be customized for members of certain affinity groups in accordance with agreements made with those affinity groups. In addition, or alternatively, affinity group members may be offered discounts on standard offerings of phones and/or services. Of course such customization for affinity group members and the like can also be provided to purchases made directly online, rather than in a physical store [0088-0092, 0101-0105].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Martin, such that the particular service being a service to enable wireless communications over a wireless network; identifying settings data associated with the particular service from a database containing settings data for a plurality of services; and sending settings data for the particular service to the mobile

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device over a wireless communication link, wherein the settings data is configured to change operational settings for the mobile device, to help the users to select or choose the service provider that offers the most suitable service such as a lower cost or quality of service.

Regarding **claim 17**, Hoffman/Martin teach in claim 16, Martin further teaches wherein the particular service comprises a mobile voice communication service associated with a specific service provider [0101-0105] of Martin.

Regarding **claim 18**, Hoffman/Martin teach in claim 17, Martin further teaches wherein the settings data comprises a preferred roaming list for the specific service provider [0089-0092, 0101-0102] of Martin.

Regarding **claim 19**, Hoffman/Martin teach in claim 17, Martin further teaches wherein the settings data identifies operational settings that, when installed on the mobile device, enable the mobile device to access the particular service provided by the specific service provide (Fig. 20 to Fig. 33, [0089-0092, 0101-0105]) of Martin.

Regarding **claim 20**, Hoffman/Martin teach in claim 17, Martin further teaches wherein the particular service is offered by a mobile virtual network operator [0089-0092, 0101-0105] of Martin.

Regarding **claim 22**, Hoffman/Martin teach in claim 16, Martin further teaches wherein the application on the mobile device is adapted for use on a Java platform on the mobile device [0172] of Martin.

Regarding **claim 23**, Hoffman/Martin teach in claim 16, Martin further teaches the method of claim 16 wherein the plurality of services comprises a plurality of mutually

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exclusive mobile communication services and the database of settings data stores settings data for each of the mutually exclusive mobile communication services [0027-0030] of Martin.

Regarding **claim 32**, Hoffman teaches a system comprising: an application download server storing mobile device settings for accessing services associated with at least one mobile service provider (Fig. 2, Features Services Database / OTA Application Server, Abstract, and C2, 18-32), wherein the application download server is operable to selectively send the mobile device settings to selected mobile devices for use in modifying the settings for each selected mobile device (C2, 8-15, and C8, L41-55); and a mobile communication system interface for connecting the application download server to a mobile communication system (C1, L45-58, C1, 60-67, and C3, L35-43), wherein the mobile device settings are sent to the mobile device over a wireless communication link between the mobile device and the mobile communication system (Fig. 2 Wireless Carrier Network, and claim 1 and 5 reads on). **But is silent on** the services comprises a service to enable wireless communications over a wireless network.

However, Martin teaches the services plans may be dynamically/automatically generated by the service providers or authorized representatives thereof based on the user's preference and/or usage information. The offering of phones and/or services may be customized for members of certain affinity groups in accordance with agreements made with those affinity groups. In addition, or alternatively, affinity group members may be offered discounts on standard offerings of phones and/or services. Of course such

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customization for affinity group members and the like can also be provided to purchases made directly online, rather than in a physical store [0088-0092, 0101-0105].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoffman, such that the at least one mobile service comprises a service to enable wireless communications over a wireless network, to help the users to select or choose the service provider that offers the most suitable service such as a lower cost or quality of service.

Regarding **claim 33**, Hoffman/Martin teach in claim 32, Hoffman further teaches wherein the services associated with the at least one mobile service provider comprise wireless communication services (C10, L5-20, and claim 5, C17-C18 reads on) of Hoffman.

Regarding **claim 34**, Hoffman/Martin teach in claim 33, Hoffman further teaches wherein the mobile device settings comprise settings necessary to enable the mobile devices to access the wireless communication services for the at least one mobile service provider (C10, L5-20, and claim 5, C17-C18 reads on).

Regarding **claim 35**, Hoffman/Martin teach in claim 33, Hoffman further teaches wherein the mobile device settings comprise a plurality of preferred roaming lists, with each preferred roaming list associated with a particular service provider (C1, L46-58).

Regarding **claim 36**, Hoffman/Martin teach in claim 35, and further teaches wherein a preferred roaming list is sent to each mobile device, with the preferred roaming list corresponding to a selection of a service provider received through the

mobile communication system interface from the mobile device (C1, L46-58) of Hoffman.

Regarding **claim 37**, Hoffman/Martin teach in claim 33, Hoffman further wherein the at least one mobile service provider comprises a mobile virtual network operator (C10, 33-43) of Hoffman.

Regarding **claim 38**, Hoffman/Martin teach in claim 33, Hoffman further wherein the application download server further stores applications for downloading to the mobile devices through the mobile communication system, with at least one of the applications comprising instructions for enabling a user to select a particular service provider from which to receive wireless communication services (C2, L33-41, claim 1 and claim 5 reads on) of Hoffman.

Regarding **claim 40**, Hoffman/Martin teach in claim 32, Hoffman further teaches wherein the mobile device settings comprise a software patch for one or more selected mobile devices (Abstract, Summary of the Invention, and claim 1) of Hoffman.

Regarding **claim 41**, Hoffman/Martin teach in claim 32, and further teaches wherein the mobile device settings comprise a telephone number (Fig. 2, and Abstract, and claim 1) of Hoffman.

3. Claims 24-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sears (US 2002/0069263) in view of Martin.

Regarding **claim 24**, Sears teaches a mobile device comprising: a transceiver operable to communicate over a wireless communication link (Fig. 1, User/ Device

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#140, teaches a system distribute information to users or mobile device); at least one memory storing an address of a server that stores settings data associated with at least one mobile service and storing client software for an application execution environment (mobile phone #140 received and storing application software into mobile device, claim 6 reads on), wherein the at least one memory is operable to store at least one application that is executable on the client software and that includes instructions for communicating with the server at the stored address (mobile phone has a transceiver, processor, storage and memory to communicate with the server [0007, 0012], receiving settings data [0012], and storing the received settings data in the at least one memory [0012]; and a processor coupled to the transceiver and the at least one memory [0012, 0014], wherein the processor is operable to execute the at least one stored application and to control communications by the transceiver [0014, and claim 6 reads on]. **But is silent on** the at least one mobile service comprises a service to enable wireless communications over a wireless network (Fig. 20-Fig. 33, [0088-0092, 0101-0105]).

However, Martin teaches the services plans may be dynamically/automatically generated by the service providers or authorized representatives thereof based on the user's preference and/or usage information. The offering of phones and/or services may be customized for members of certain affinity groups in accordance with agreements made with those affinity groups. In addition, or alternatively, affinity group members may be offered discounts on standard offerings of phones and/or services. Of course such customization for affinity group members and the like can also be provided to purchases made directly online, rather than in a physical store [0088-0092, 0101-0105].

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Martin, such that the at least one mobile service comprises a service to enable wireless communications over a wireless network, to help the users to select or choose the service provider that offers the most suitable service such as a lower cost or quality of service.

Regarding **claim 25**, Sears/Martin teach in claim 24, Sears further teaches wherein the server comprises an application download server [0012, 0041] of Sears.

Regarding **claim 26**, Sears/Martin teach in claim 24, Sears further teaches wherein the client software comprises Binary Runtime Environment for Wireless (BREW) client software [0061] of Sears.

Regarding **claim 27**, Sears/Martin teach in claim 26, Sears further teaches wherein the at least one application is adapted for execution by the BREW client software [0061] of Sears.

Regarding **claim 28**, Sears/Martin teach in claim 26, and further teaches wherein the client software comprises Java virtual machine software (Title, Abstract, and Fig.1 Java Application Servers) of Sears.

Regarding **claim 29**, Sears/Martin teach in claim 24, Sears further teaches wherein the received settings data comprises settings that enable wireless communications using a particular service provider ([0002, 0004]) of Sears.

Regarding **claim 30**, Sears/Martin teach in claim 29, Sears further teaches further comprising a visual display [0005, 0009], wherein the at least one application comprises instructions for causing the processor to [0005, 0009]: retrieve a list of

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available service providers from the server [0002, 0004, and 0012]; display the list of available service providers on the visual display [0005, 0009]; receive a user selection of a particular service provider [0012, 0013]; and transmit an indication of the user selection from the transceiver to the server [0012, 0013, and claim 14 reads on].

Regarding **claim 31**, Sears/Martin teach in claim 24, Sears further teaches further comprising a visual display [0005, 0009], wherein the at least one application comprises instructions for causing the processor to [0025, 0053, 0054]: retrieve a list of available service plans from the server [0002, 0004, 0012]; display the list of available service plans on the visual display [0005, 0009]; receive a user selection of a particular service plan [0012, 0013]; and transmit an indication of the user selection from the transceiver to the server [0012, 0013, and claim 14 reads on] of Sears.

4. Claims 10, 21 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman/Marin in further view of Sears (US 2002/0069263).

Regarding **claim 10**, Hoffman teaches in claim 7, **but is silent on** wherein the data relating to mobile subscription choices and the data representing at least one setting for the mobile device are adapted for use on a Binary Runtime Environment for Wireless (BREW) platform on the mobile device. However, Sears teaches the users can select a group consisting of download history, log of frequently used applications, billing and subscription information, user ranking of applications, applications used in the past, and download history ([0061, and C9 claim 14 reads on).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoffman, such that the data relating to mobile subscription choices and the data representing at least one setting for the mobile device are adapted for use on a Binary Runtime Environment for Wireless (BREW) platform on the mobile device, to provide the flexibility to support any device for consumers who have a full access to download application software via internet to mobile phone.

Regarding **claim 21**, Hoffman teaches in claim 16, **but is silent on** wherein the application on the mobile device is adapted for use on a Binary Runtime Environment for Wireless (BREW) platform on the mobile device. However, Sears teaches the users can select a group consisting of download history, log of frequently used applications, billing and subscription information, user ranking of applications, applications used in the past, and download history ([0061, and C9 claim 14 reads on).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoffman, such that the application on the mobile device is adapted for use on a Binary Runtime Environment for Wireless (BREW) platform on the mobile device, to provide the flexibility to support any device for consumers who have a full access to download application software via internet to mobile phone.

Regarding **claim 39**, Hoffman teaches in claim 38, **but is silent on** wherein the applications are adapted for execution on a Binary Runtime Environment for Wireless (BREW) platform. However, Sears teaches the users can select a group consisting of download history, log of frequently used applications, billing and subscription

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information, user ranking of applications, applications used in the past, and download history ([0061, and C9 claim 14 reads on).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hoffman, such that the application on the mobile device is adapted for use on a Binary Runtime Environment for Wireless (BREW) platform on the mobile device, to provide the flexibility to support any device for consumers who have a full access to download application software via internet to mobile phone.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Minear (US 2203/0032417)

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Vu whose telephone number is (571)272-8131. The examiner can normally be reached on 8:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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